

Berman, P.

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MEMO ENDORSED

P. 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TED DAVISON, WILLIAM GOULD, and RAY
LENCI, Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

vs.

VENTRUS BIOSCIENCES, INC., DR. RUSSELL H.
ELLISON, DAVID J. BARRETT, and NATIONAL
SECURITIES CORPORATION,

Defendants.

MICHAEL BARTLEY, Individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

vs.

VENTRUS BIOSCIENCES, INC., DR. RUSSELL H.
ELLISON, DAVID J. BARRETT, and NATIONAL
SECURITIES CORPORATION,

Defendants.

Index No. 13 Civ. 3119 (RMB)

STIPULATION AND [PROPOSED]
ORDER EXTENDING TIME TO
RESPOND TO COMPLAINTS

Index No. 13 Civ. 3429 (RMB)

WHEREAS, On May 9, 2013, Plaintiffs in the *Davison* Action filed a class action complaint sounding in securities fraud, thereby initiating their lawsuit. (ECF. No. 1 ("Davison Complaint")). This case is the first-filed action.

WHEREAS, On May 21, 2013, Plaintiff in the *Bartley* Action filed a class action complaint sounding in securities fraud, thereby initiating his lawsuit. (ECF. No. 1 ("Bartley Complaint")).

WHEREAS, The Private Securities Litigation Reform Act ("PSLRA") contemplates that the plaintiffs who file the initial action must, within 20 days of filing, publish notice to the purported class informing the class members of their right to seek appointment as lead plaintiff

within 60 days of publication of the notice. See 15 U.S.C. §78u-4(a)(3)(A). The Court must appoint a lead plaintiff no later than 90 days after the notice has been published (15 U.S.C. §78u-4(a)(3)(B)(i)), except, if a motion to consolidate multiple actions has been filed, the Court must wait until any consolidation motion has been resolved before appointing a lead plaintiff (15 U.S.C. §78u-4(a)(3)(B)(ii)).

WHEREAS, Plaintiffs and Defendants Ventrus Biosciences, Inc., Dr. Russell H. Ellison, David J. Barrett and National Securities Corporation submit this stipulation because they anticipate that: (1) additional, related cases may be filed in this District and transferred to this Court;¹ (2) one or more motions for appointment of lead plaintiff may be filed; (3) the Court will consolidate all of the related federal securities actions; and (4) the Court will appoint a lead plaintiff and lead counsel pursuant to the PSLRA.

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the undersigned parties, as follows:

1. Defendants Ventrus Biosciences, Inc., Dr. Russell H. Ellison, David J. Barrett and National Securities Corporation have or will accept service of the *Davison* and *Bartley* Complaints.
2. The Court will hold a hearing on July 17, 2013 at 9:30 AM to determine and appoint, pursuant to the PSLRA, a lead plaintiff and lead counsel.
3. Counsel for lead plaintiff will file a consolidated amended Complaint by August 30, 2013.

¹ If additional cases are filed, the parties and their counsel will undertake to file, pursuant to S.D.N.Y. Local Civil Rule 1.6, a notice of related case in each of those cases relating them to this action.

4. Counsel for Defendants Ventrus Biosciences, Inc., Dr. Russell H. Ellison, David J. Barrett and National Securities Corporation will provide its pre-motion letter to counsel for lead plaintiff on September 23, 2013. Lead plaintiff will respond to Defendants' pre-motion conference letter on September 27, 2013. A pre-motion conference will be held by the Court on

at 2, 2013 at **1:30** PM.

5. Defendants Ventrus Biosciences, Inc., Dr. Russell H. Ellison, David J. Barrett and National Securities Corporation shall have no obligation to answer or otherwise respond to the *Davison* Complaint or the *Bartley* Complaint until after the appointment of a lead plaintiff and after the filing by such lead plaintiff of a consolidated complaint.

6. Nothing herein shall be deemed to constitute a waiver of any rights, defenses, objections, or any other application to any court that a party may have with respect to the claims set forth in the *Davison* Complaint or the *Bartley* Complaint.

Dated: June 13, 2013
New York, New York

SCOTT+SCOTT,
ATTORNEYS AT LAW, LLP

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Counsel for the Davison Plaintiffs

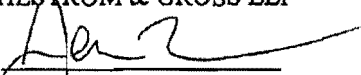
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*Counsel for Defendants Ventrus Biosciences,
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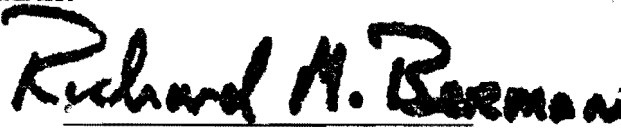
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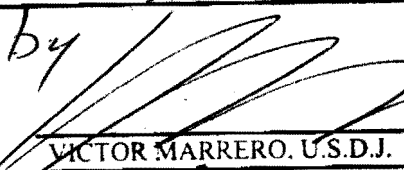
Counsel for National Securities Corporation

ORDER

IT IS SO ORDERED: *On consent.*

Dated: June 18, 2013


RICHARD A. BERMAN
UNITED STATES DISTRICT JUDGE *RM*

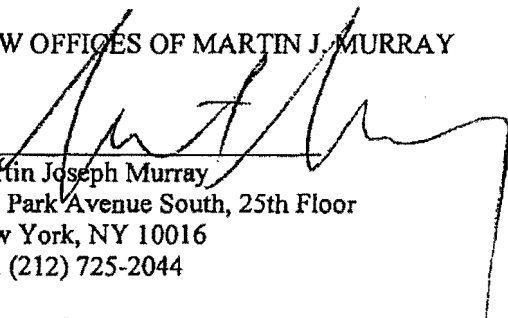
SO ORDERED.	<i>by</i>
<i>6-18-13</i>	
DATE	VICTOR MARRERO, U.S.D.J.

POMERANTZ GROSSMAN HUFFORD
DAHLSTROM & GROSS LLP

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Counsel for National Securities Corporation

ORDER

IT IS SO ORDERED:

Dated: _____, 2013

RICHARD A. BERMAN
UNITED STATES DISTRICT JUDGE 